

Atty Dkt: IDF 1596
4000-03900

Patent

REMARKS

Applicants' counsel appreciated the time of Examiner Baran and Supervisory Examiner Hoff in meeting with Applicants' counsel on October 29, 2003. During that interview, Applicants' counsel primarily focused discussion on the Barker reference (U.S. Patent No. 6,363,421, hereinafter Barker) and its use of the object server as discussed in Examiner's Response to Arguments in the Office Action dated August 8, 2003. This discussion is briefly summarized in the following paragraphs.

Applicants' respectfully submitted that Barker used the object server as a functional element of the management system to accomplish its end functional goals. So, for example, where the Object Server uses an Event Distributor to register a filter and request event data to match the filter, these actions are being taken not directly on the elements to be tested, but are instead actual functional occurrences not of the tested elements but of the management system accomplishing its intended purpose.

The testing and monitoring system of the present application, by comparison, is sending functional test signals to the elements or systems actually under test, where the test signals engage the functional operability of the element or system to be tested in order to test the functional operability of the tested system (not to actually run the testing and monitoring system itself). These are only test signals and successful functional responses to the test signals are not part of, or necessary to, the operation of the defined invention. Nor are the functional test signals specifically designed to generate a beneficial functional result in the operation of the tested system.

Applicants' submitted that each of claims 1, 18, 20, & 21 include an element of sending "functional test signals" which was not taught by Barker's use of the object server. At the conclusion of the interview, the Examiner agreed that her present review of Barker did not find a teaching of the use of functional test signals in its description of the object server. Examiner indicated an intention to allow the claims as currently before her, provided she had a last opportunity to review all of Barker and potentially other references with her new understanding.

Since Examiner was favorably inclined to allow all claims based on the arguments above, Applicants' did not substantively address the additional rejections of dependent claim 11 over the newly provided Meyer reference (U.S. Patent No. 6,289,378). While Applicant respectfully submits that Meyer does not teach the combination of evaluation of time based load by analyzing

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the time for response to test signals with adjustment of system resources based on such analysis, independent of such argument, this dependent claim would be allowable as dependent from an allowable independent claim.

The Commissioner is hereby authorized to charge payment of any further fees associated with any of the foregoing papers submitted herewith, or to credit any overpayment thereof, to Deposit Account No. 21-0765, Sprint.

Applicants respectfully submit that the present application is in condition for allowance. If the Examiner has any questions or comments or otherwise feels it would be helpful in expediting the application, he is encouraged to telephone the undersigned at (972) 731-2288.

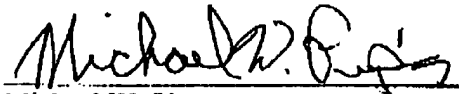
Respectfully submitted,

CONLEY ROSE, P.C.

Date:

11/10/2003

5700 Granite Parkway, Suite 330
Plano, Texas 75024
Telephone: (972) 731-2288
Facsimile: (972) 731-2289



Michael W. Piper
Reg. No. 39,800

ATTORNEY FOR APPLICANT